

## **REMARKS**

As an initial matter, Applicants appreciate the Examiner's reconsideration and withdrawal of the objections to the drawings and abstract, and the claim rejection under 35 U.S.C. § 102(b). Applicants respectfully request for reconsideration and withdrawal of the claim rejection included in the final Office Action for at least the reasons outlined in more detail herein.

### **I. Rejection of Claims 37 and 38 under 35 U.S.C. § 102(b) based on Marin**

Claims 37 and 38 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,281,757 to Marin ("Marin"). Final Office Action at 2. Claim 37 is the only independent claim included in that claim rejection, and Applicants respectfully traverse the § 102(b) rejection of that claim because Marin fails to disclose all of the subject matter recited in Applicants' independent claim 37.

Applicants' independent claim 37 is directed to an electrical cable, including, *inter alia*, "a thermoplastic insulating layer radially external to [a] conductor; at least one expanded polymeric layer around said insulating layer; a circumferentially closed metal shield; and an impact protecting element in a position radially external to the metal shield, said impact protecting element comprising at least one non-expanded polymeric layer around said metal shield and at least one expanded polymeric layer radially external to said non-expanded polymeric layer." Marin fails to disclose at least this subject matter.

The rejection statement asserts that Marin discloses "a conductor (5), a thermoplastic insulating layer (8) radially external to the conductor (5), at least one

expanded polymeric layer (10) around an insulating layer (8), [and] a circumferentially closed metal shield (3) around the expanded polymeric insulation layer (10) . . . .” Final Office Action at 2. Applicants respectfully submit that contrary to the assertion, Marin does not disclose that the “polymeric insulation layer (10)” is “around an insulating layer (8),” and further, Marin does not disclose that “a circumferentially closed metal shield (3)” is “around the expanded polymeric insulation layer (10) . . . .” Rather, Marin discloses that the metal shield 3 contacts the insulation stress control layer 9 except at the space adjacent the end of the inner portion 1 which, preferably, is filled with a sealing compound or water swellable material 10 . . . .” (Col. 4, ll. 3-6; Fig. 1). Thus, the sealing compound or water swellable material 10 is not “around” the metal shield 3, as recited in independent claim 37, but rather, it is located only where the ends of the metal shield 3 overlap one another, as shown in Fig. 1 of Marin.

Moreover, Marin also does not disclose “an impact protecting element in a position radially external to [a] metal shield, said impact protecting element comprising at least one non-expanded polymeric layer around said metal shield and at least one expanded polymeric layer radially external to said non-expanded polymeric layer,” as recited in independent claim 37. The rejection statement asserts that Marin discloses “an impact protecting element (11 & 12) in a position radially external to the metal shield (3), wherein the impact protecting element (11 & 12) comprises at least one non-expanded polymeric layer (12) surrounding the metal shield [(3)][sic] and at least one expanded polymeric layer (11) is radially internal to the non[-]expanded polymeric layer (11, Fig 1).” Final Office Action at 2-3.

Applicants respectfully disagree with the rejection statement's interpretation of Marin. Marin discloses "a sealing compound or water swellable particles 11 . . . between the metal shield 3 and the jacket 12 of polymeric material." (Col. 4, ll. 16-19; Fig. 1). Marin does not disclose that that jacket 12, which is external to sealing compound or water swellable particles 11, is an expanded polymeric layer, and further, Marin does not disclose that the sealing compound or water swellable particles 11 are a non-expanded polymeric layer. Since independent claim 37 recites, in pertinent part, "at least one non-expanded polymeric layer around said metal shield and at least one expanded polymeric layer radially external to said non-expanded polymeric layer," Marin does not disclose at least this subject matter recited in independent claim 37.

For at least the above-outlined reasons, Marin fails to disclose all of the subject matter recited in Applicants' independent claim 37. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 37 under § 102(b) based on Marin.

The rejection statement also asserts that "[w]ith respect to claim 38, Belli discloses that the expanded layer (11) is 1-2 times the thickness of the non-expanded layer (12, Fig 1)." Final Office Action at 3. Applicants believe that the rejection statement's apparent reference to WO 98/52197 to Belli et al. ("Belli") is a typographical error, since claim 38 is rejected under § 102(b) based on Marin rather than Belli. Regardless of whether claim 38 was intended to be rejected under § 102(b) based on Marin or Belli, Applicants respectfully note that claim 38 depends from independent claim 37 and should be allowable for at least the same reasons independent claim 37 is allowable.

## II. Conclusion

For at least the above-outlined reasons, Applicants' claims 37 and 38 should be allowable. Claims 20-36 have been allowed. Accordingly, Applicants respectfully request reconsideration of this application, withdrawal of the claim rejection, and allowance of claims 20-38.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicants' undersigned attorney at (404) 653-6559.

Applicants respectfully submit that the final Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

Please grant any extensions of time required to enter this Amendment and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: July 17, 2008

By:   
Christopher T. Kent  
Reg. No. 48,216